



— State of —
North Dakota

Office of the Governor

John Hoeven
Governor

May 11, 2009

The Honorable Jack Dalrymple
President
North Dakota Senate
State Capitol
Bismarck, ND 58505

RE: Senate Bill 2030

Dear President Dalrymple:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Section 2 of Senate Bill 2030 and returned it to the Senate.

Section 2 would allow the budget section to approve a change in or expansion of the state penitentiary building project beyond what was authorized by the 61st Legislative Assembly.

During the 60th Legislative session, the Legislature approved the prison project subject to approval by the emergency commission and the budget section. The Attorney General later declared the requirement of budget section approval as unconstitutional as a violation of the separation of powers doctrine. N.D.A.G. 2007-L-08. Article X, Section 12 of the North Dakota Constitution reserves the exclusive right to appropriate monies to the full Legislature, and the North Dakota Supreme Court has said except "as otherwise provided in the constitution, the Legislature may not delegate legislative powers to others, including to a subset of its members" Kelsh v. Jaeger, 641 N.W.2d 100 (N.D. 2002).

Section 2 suffers from the same constitutional infirmities as the process declared unconstitutional by the Attorney General last session. The budget section cannot change what the full legislative body has already authorized and appropriated.

600 E Boulevard Ave.
Bismarck, ND 58505-0001
Phone: 701.328.2200
Fax: 701.328.2205
www.nd.gov

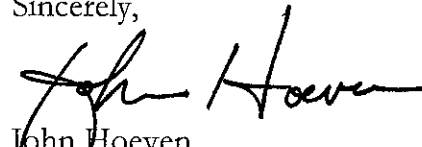
Honorable Jack Dalrymple

May 11, 2009

Page 2

For this reason, I have vetoed Section 2 of Senate Bill 2030.

Sincerely,


John Hoeven
Governor

38:34:58

Received by: Jay E. Buringiel Date: 5/11/9 Time: 2:03 p.m.